

FREDERICK COUNTY LIQUOR BOARD
Public Meeting Minutes
Monday, November 19, 2012

Those Present: Mr. James E. McClellan, Chairman
Mr. Richard E. Zimmerman, Board Member
Mrs. Maggi Hays, Board Member
Mrs. Linda B. Thall, Sr. Assistant County Attorney
Mr. Harold C. DeLauter, Alcoholic Bev. Inspector
Mr. Frank Rauschenberg, Alcoholic Bev. Inspector
Ms. Kathy L. Vahle, Administrator
Mrs. Sandra Rees, Administrative Specialist IV
Mrs. Penny Bussard, Administrative Specialist IV

A Public Meeting was held at 12 E. Church Street, Frederick, Maryland, and was called to order at 8:30 am by Chairman McClellan.

1. **Regulations Regarding the Conduct of Business** – Inspector Rauschenberg has requested an interpretation by the Board for §5.8 of the Regulations. Mr. Zimmerman stated that Chief Dine feels that the Liquor Board should place more responsibility on behalf of the licensees based on §5.8 of the Regulations to avoid disturbing the peace, safety and quiet of the neighborhood. This has always been a concern of the downtown residents and because people come from a lot of different places it would be hard to prove that the licensee is responsible for a disturbance. Ms. Vahle stated people are going outside to smoke so there is more people loitering outside and creating noise. Mr. Rauschenberg stated that the Board does permit outside consumption of alcohol, meaning the patios and the problem is people are going outside and are over served inside and creating noise. Mr. Zimmerman stated he would be willing to look at this on a case by case basis instead of providing a general policy. Mrs. Thall recommended proceeding with caution. The Board could hold a conference or send letters to put licensees on notice of the Board's concerns. Then if there is an issue, it could result in a protest on the Renewal. The Board decided to send out letters to specific licensees making them aware of the Board's concerns.

2. Decision Required: New

RE: Joseph Few
t/a JD's Family Restaurant
304 E. Main St.

Emmitsburg, MD 21727
Class B, On Sale, Beer, Wine and Liquor

The Board held a hearing for a new license. Ms. Vahle swore in the applicant (See attached Sign In Sheet). The pending items are: Health Department and the Retail Sales Tax license. Mr. Few stated that the Health Department was coming out this morning and the Retail Sales Tax license has to be corrected and it will take a few weeks. Inspector DeLauter stated they are compliant.

MOTION: Mr. Zimmerman made a motion for a conditional approval until December 17, 2012.

SECOND: Mrs. Hays seconded the motion.

FURTHER DISCUSSION

ON THE MOTION: There was no further discussion on the motion.

VOTE: Mr. Zimmerman - Aye
Mrs. Hays - Aye
Mr. McClellan - Aye

The vote was unanimous. **Aye – 3 Nay – 0**
(Motion Passed)

3. Decision Required: Transfer

TRANSFER FROM:

RE: Pradeep Saini for the use of
Saini Foods & Beverage LLC
t/a Village Liquors
101 Silo Hill Rd.
Emmitsburg, MD 21727
Class A, Off Sale, Beer, Wine & Liquor
License # 11AL 1098 SU WT

TRANSFER TO:

RE: Margaret Abraham for the use
of Saini Foods & Beverage LLC
t/a Village Liquors
101 Silo Hill Rd.
Emmitsburg, MD 21727
Class A, Off Sale, Beer, Wine & Liquor

The Board held a hearing for a transfer of a license. Ms. Vahle swore in the applicants (See attached Sign In Sheet). The pending items are: the Fire Marshal and Alcohol Awareness. The Alcohol Awareness was completed and the Fire Marshal will inspect today. The applicant said this is a family run business and they have part-time employees when they are not there. Inspector DeLauter stated they are compliant.

MOTION ONE: Mrs. Hays made a motion for a conditional approval for December 17, 2012.

SECOND: Mr. Zimmerman seconded the motion.

FURTHER DISCUSSION

ON THE MOTION: There was no further discussion on the motion.

VOTE: Mrs. Hays – Aye
Mr. Zimmerman – Aye
Mr. McClellan – Aye

The vote was unanimous. **Aye – 3 Nay – 0**
(Motion Passed)

4. Decision Required: Violation

RE: Ashley Pare
for use of Phillys CSF, Inc.
t/a Bodega/Cellar Door
5 E. Church St.
Frederick, MD 21701
Class B on Sale Beer, Wine and Liquor
License Number 11BL 1696
FCLB Case Number: 6013

The Board held a violation hearing for a charge of furnishing alcohol to an intoxicated person. Mrs. Thall swore in the licensees and potential witnesses. The licensees were represented by Attorney Scott Rolle. (See Attached Sign In Sheet). The licensees pled Not Guilty. The Board heard testimony from: Attorney Scott Rolle, Ashley Pare, Pam Belles, Roland Belles, Kristin Harting, Patricia LaMay, Mark Kline, Joanne Button and Inspector Rauschenberg. For the prior violation history Ms. Vahle stated the original license was issued September 29, 2006 for Beer only

on February 27, 2009 it was upgraded to Beer, Wine and Liquor. On July 6, 2009 they paid a fine of \$50 for picking up the Renewal late. On May 3, 2010 they paid a \$300 fine for doing construction without the Board's approval.

MOTION ONE: Mr. Zimmerman made a motion for a finding that the patron was in fact intoxicated at the Cellar Door at the time alleged based on testimony heard from a variety of witnesses.

SECOND: Mrs. Hays seconded the motion.

FURTHER DISCUSSION

ON THE MOTION: There was no further discussion on the motion.

VOTE: Mr. Zimmerman – Aye
Mrs. Hays - Aye
Mr. McClellan – Aye

The vote was unanimous. **Aye – 3 Nay – 0**
(Motion Passed)

MOTION ONE: Mr. Zimmerman made a motion for a technical finding of a violation for Regulation 6.14 of Selling to an Intoxicated Person because the purchaser of the alcohol was the intoxicated person, who paid for the alcoholic beverages directly.

SECOND: Mrs. Hays seconded the motion.

FURTHER DISCUSSION

ON THE MOTION: There was no further discussion on the motion.

VOTE: Mr. Zimmerman – Aye
Mrs. Hays - Aye
Mr. McClellan – Aye

The vote was unanimous. **Aye – 3 Nay – 0**
(Motion Passed)

MOTION ONE: Mrs. Hays made a motion for a fine of \$500.

SECOND: Mr. Zimmerman seconded the motion.

FURTHER DISCUSSION

ON THE MOTION: There was no further discussion on the motion.

VOTE: Mrs. Hays – Aye
Mr. Zimmerman – Aye
Mr. McClellan – Aye

The vote was unanimous. **Aye – 3 Nay – 0**
(Motion Passed)

5. Decision Required: Violation

RE: Edmond B. Gregory
for the use of 44 Restaurant,
Inc. t/a Isabella's Taverna &
Tappas Bar
44 North Market Street
Frederick, MD 21701
Class B, On Sale, Beer, Wine & Liquor
License Number 11BL 1020 CA
FCLB Case Number: 6012

The Board held a violation hearing for a charge of furnishing alcohol to an intoxicated person. Mrs. Thall swore in the licensees and potential witnesses. (See Attached Sign In Sheet). The licensees pled Not Guilty. Mr. Zimmerman found that the employees acted appropriately in handling the situation. Also he interpreted the law to say if there is a person who has been cut off or obviously drunk and they are buying drinks for their friends you cannot do that. Mr. Zimmerman stated there was no bar tab and the bartender stated she does not remember who paid for the drinks, but if there was a bar tab presented in this case and it showed that this individual had paid for those drinks for his friends, he would certainly recommend a violation.

MOTION ONE: Mrs. Hays made a motion for Not Guilty.

SECOND: Mr. Zimmerman seconded the motion.

FURTHER DISCUSSION

ON THE MOTION: There was no further discussion on the motion.

VOTE: Mrs. Hays – Aye
Mr. Zimmerman – Aye
Mr. McClellan – Aye

The vote was unanimous. **Aye – 3 Nay – 0**

(Motion Passed)

6. **Cellar Door** - Pamela O'Malley Belles, who identified herself as being from the Cellar Door, approached the Board and asked to speak. She stated she could produce a receipt for the case for Isabella's. She did not feel that using the technicality that he used his credit card to pay for the drinks, after her staff did every possible thing they could to stop the patron from drinking. Also she felt it was an unfair decision. Mr. Zimmerman stated that the two cases were similar but the difference was that there was no receipt. Mrs. Belles stated that she will file an appeal within 30 days.
7. Decision Required: approval of the Public Meeting Minutes for September 24, 2012 and November 5, 2012.

MOTION: Mr. Zimmerman made a motion to approve the Public Meeting Minutes for September 24, 2012 and November 5, 2012 but to amend the Minutes for November 5, 2012 to reflect in paragraph #12 to state that the Board asked that Mr. Brooks and Mr. Bowers obtain a further clarification in writing from the Comptroller's Office as to the size of the free samplings and as to the number of samplings allowed before considering this request again.

SECOND: Mrs. Hays seconded the motion.

FURTHER DISCUSSION

ON THE MOTION: There was no further discussion on the motion.

VOTE: Mr. Zimmerman - Aye
Mrs. Hays - Aye
Mr. McClellan - Aye

The vote was unanimous. ***Aye - 3 Nays - 0***
(Motion Passed)

8. **Brunswick Eagles** - There was a request for extending their hours of operation on Friday and Saturdays to allow for a late breakfast. They anticipate staying open after 3AM but no alcohol will be served after 2AM.

MOTION: Mr. Zimmerman made a motion to approve the request.

SECOND: Mrs. Hays seconded the motion.

FURTHER DISCUSSION

ON THE MOTION: There was no further discussion on the motion.

VOTE: Mr. Zimmerman - Aye
Mrs. Hays - Aye
Mr. McClellan - Aye

The vote was unanimous. **Aye - 3 Nays - 0**
(Motion Passed)

9. **Buffalo Wild Wings-Frederick** - Ms. Vahle stated they are requesting approval for their outside area.

MOTION: Mr. Zimmerman made a motion to approve the request, conditioned on receipt of the other required approvals.

SECOND: Mrs. Hays seconded the motion.

FURTHER DISCUSSION

ON THE MOTION: There was no further discussion on the motion.

VOTE: Mr. Zimmerman - Aye
Mrs. Hays - Aye
Mr. McClellan - Aye

The vote was unanimous. **Aye - 3 Nays - 0**
(Motion Passed)

10. **Cellar Door** - This request is for the management to be approved to make a decision to close the business earlier than posted hours in the event of inclement weather or when there are not enough customers to justify staying open. Mr. Zimmerman stated closing for inclement weather will not be penalized. However, he felt that to allow them to decide when the weather is bad is too broad a request. He also felt that the request to be allowed to close when there are not enough customers is too broad of a request.

MOTION: Mr. Zimmerman made a motion to deny the request.

SECOND: Mrs. Hays seconded the motion.

FURTHER DISCUSSION

ON THE MOTION: There was no further discussion on the motion.

VOTE: Mr. Zimmerman - Aye
Mrs. Hays - Aye
Mr. McClellan - Aye

The vote was unanimous. **Aye - 3 Nays - 0**
(Motion Passed)

11. **VFW Country Club** – Ms. Vahle stated they have an annual Christmas Party every year for their members. They are requesting approval to provide an Open Bar for \$10 a person from 6pm to 8 pm.

MOTION: Mr. Zimmerman made a motion to approve the request.

SECOND: Mrs. Hays seconded the motion.

FURTHER DISCUSSION

ON THE MOTION: There was no further discussion on the motion.

VOTE: Mr. Zimmerman - Aye
Mrs. Hays - Aye
Mr. McClellan - Aye

The vote was unanimous. **Aye - 3 Nays - 0**
(Motion Passed)

12. **Beer and Light Wine Restaurant** – Ms. Vahle received a request for approval to use Enomatic Wine Dispensing system. A patron will purchase a card with their credit card then go up and insert this card into the system to dispense the wine to them. It gives them an opportunity to try a variety of different samples for a fee. They will allow customers a 1 ounce taste, a 3 ounce glass, or a 5 ounce full glass after they decide what they want. Patron's IDs would be carefully checked by trained Alcohol Awareness staff

members prior to purchase of one of cards that allows them to use the system. Ms. Vahle stated from a Retailers view point they can cut their costs because not as many servers are necessary. Plus you are getting specific pours. But from a Regulatory standpoint there are other concerns. Ms. Vahle will schedule a meeting with the interested party and the Board to discuss this request.

13. **MiCasa Restaurant** – They have submitted a request for a billiard table, a live DJ and Karoke entertainment. The Fire Marshal will only approve 49 seats and there has to be 50 seats. Inspector Rauschenberg stated he talked with the establishments on each side of Micasa and they both stated they would be opposed to approving this request. Mr. Zimmerman would not have a problem denying the request with a track record of problems. However he feels they are entitled to a chance to see if it will be run properly.

MOTION: Mr. Zimmerman made a motion to approve the request if they meet the requirements.

SECOND: Mrs. Hays seconded the motion.

FURTHER DISCUSSION

ON THE MOTION: There was no further discussion on the motion.

VOTE: Mr. Zimmerman - Aye
Mrs. Hays – Aye
Mr. McClellan – Aye

The vote was unanimous. **Aye – 3 Nays – 0**
(Motion Passed)

14. **Meeting Time** – Mrs. Thall asked the Board what time they wanted to start the Hearings at 8:30AM or 8:45AM. The Board agreed to start the Hearings at 8:45AM.

ADJOURN

The meeting was adjourned at 11:25 am.

Respectfully submitted,

Kathy Vahle, Administrator
FREDERICK COUNTY LIQUOR BOARD

Prepared by Sandra Rees